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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,519

02/28/2005

Kyoko Yokoi

TIP-05-1007

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EXAMINER

CHRISS, JENNIFER A

ART UNIT

PAPER NUMBER

1771

MAIL DATE

DELIVERY MODE

09/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/522,519

**Applicant(s)**

YOKOI ET AL.

**Examiner**

Jennifer A. Chriss

**Art Unit**

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Amendments and Accompanying Remarks filed on August 2, 2007 have been entered and carefully considered. Claims 5 and 7 are amended, claims 1 – 4 are cancelled and claims 5 – 8 are pending. In view of Applicant's amendments requiring that the polyurethane contains "yellow, red *and* blue pigments", the Examiner has withdrawn the rejections over HIGUCHI et al. (US 4,525,169) as detailed paragraphs 3 – 4 of the Office Action dated June 15, 2007. The invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102/103***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5 and 7 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gandhi et al. (US 6,844,276).

Gandhi et al. is directed to dyed microfiber textiles (Title) which exhibit greater light fastness and lower rate of transfer of color from the fibers to a second object (column 1, lines 20 – 26).

As to claims 5 and 7, Gandhi et al. teach a nonwoven polyester microfiber textile having a polyurethane matrix partially and/or fully impregnated within the nonwoven textile (column 1, lines 30 – 40 and also see Example A, column 2). Gandhi et al. teach that the microfiber has a linear density of 1 denier or less (1.11 dtex or less) (column 1, lines 10 – 15); it should be noted that the linear density of Gandhi et al. encompasses Applicant's claimed range. The impregnated nonwoven of Example A was sanded (column 2, lines 55 – 60), which would result in Applicant's "suede". In Example A, the impregnated nonwoven material is subjected to a dyeing process which includes red, blue and yellow pigments (column 2, lines 4 – 18). As a result, the polyurethane would be dyed with the above listed pigments as required by Applicant. Gandhi et al. teach that the light fastness is 6.0 or less (column 3, lines 1 – 15); it should be noted that the lightfastness significantly overlaps with Applicant's claimed range. The Examiner submits that the polyurethane would be present in the form of Applicant's claimed "coagulated film" because the polyurethane, when impregnated, would form a similar

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flat planar shape to the nonwoven. The Examiner submits that the sanded and impregnated polyester microfiber nonwoven sheet would be “an artificial leather” since the prior art meets the structural and chemical limitations set forth and there is nothing on record to evidence that the prior art product could not function in the desired capacity. The burden is shifted upon the Applicant to evidence the contrary.

Gandhi et al. teach the claimed invention above but fails to teach that the infrared reflectance is 850 nm at 60% or more, the surface temperature during light irradiation is 105 C or lower, the discoloration ratio after reduction cleaning is 20% or less and the chroma is 10 or less. It is reasonable to presume that the above discussed properties are inherent to Gandhi et al. Support for said presumption is found in the use of like materials (i.e. a sueded nonwoven polyester microfiber textile having a polyurethane matrix partially and/or fully impregnated within the nonwoven textile dyed with red, blue and yellow dyes and having a lightfastness of 6 or less) which would result in the claimed properties. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties would obviously have been present once the Gandhi et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

### ***Claim Rejections - 35 USC § 103***

5. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gandhi et al. (US 6,844,276) in view of Pedain et al. (US 3,867,350).

Gandhi et al. teach the claimed invention above but is silent to the use of a polycarbonate-based polyurethane.

Pedain et al. relates to polyurethane urea elastomers based on polycarbonate macrodiols which have the advantage of being less of a physiological hazard, that are more resistant to common solvents and require less emulsifiers and dispersion aids (Title and Abstract). The reference teaches the use of the resin for the production of coatings applied to substrates such as leather and artificial leather (column 6, lines 20-31).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the resin of Gandhi et al. and provide it with the polycarbonate based polyurethane of Pedain et al. with the motivation of using an elastomer that is less of a physiological hazard, that is more resistant to common solvents and require less emulsifiers and dispersion aid as disclosed by Pedain et al. (Abstract).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Chriss whose telephone number is 571-272-7783. The examiner can normally be reached on Monday - Friday 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571 - 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jennifer A Chriss/  
Examiner, Art Unit 1771  
September 17, 2007